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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,096	12/05/2003	Anders M. E. Samuelsson	MS1-1696US	8822
22801	7590	08/31/2007		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER YOUNG, NICOLE M	
			ART UNIT	PAPER NUMBER
			2139	
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			08/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/729,096

Applicant(s)

SAMUELSSON ET AL.

Examiner

Nicole M. Young

Art Unit

2139

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 16 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) ~~the date~~ ^{the date} in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-5, 8-17, 28-32.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

The 35 U.S.C. 103 (a) rejections were proper at the time of rejection. The Applicant did not formally submit the statement that Cedar et al. (US 2003/0236994) was owned by the same assignee until after final. While the statement of common ownership may overcome the rejection of claims 1-5, 3-13, and 22-27, the Examiner must conduct an updated search and further consider the prior art of record.

The 35 U.S.C. 102 (e) rejections are maintained. The Applicant argues that Willwbeck -Lemair does not teach "receiving a security related event from a first security-related application program, the security related event associated with a system state" as in independent claims 14 and 28. The Examiner respectfully disagrees. Paragraph [0014] teaches an intrusion detector functionality that sends an alert when detecting potentially harmful traffic. This is sent to a firewall, which responds by blocking the entrance of the detected traffic. The Examiner interprets the intrusion detector and firewall to be "security engines" of claim 1. This would then teach one security engine (intrusion detector) detecting an event (potentially harmful traffic), identifying a second security engine (firewall), and communicating the event to it. Paragraph [0075] teaches that the network discovery functionality maintains a database that also includes "host/service inventory information which includes an inventory of assessed vulnerabilities." The Examiner interprets this to include system state information. Claims 15 -17 and 19-21 are dependent on claim 14 and claims 29 -32 are dependent on claim 28 and are rejected in the same manner.

The 35 U.S.C. 101 rejections are maintained. Claim 22 teaches a system comprised of a first security engine, a second security engine and an event manager. The specification defines security engines as "implemented in software, hardware, or a combination of both." It is further stated, that the event manager receives events from the security engines and then "processes these events and communicates the information contained in particular events to other search engines." The Examiner interprets the event manager to recite software. Therefore, the entire claim recites software, which fails to fall into one of the 4 categories of invention. The dependent claims 23 -27 limit the software of independent claim 22, so they are non-statutory as well.

The rejection for claims 22-27 under 35 U.S.C. 101 stands as the amendment filed 2/23/2007 does not recite enough structure. The Examiner suggests modeling claim 22 after statutory claim 28.

A formal interview was conducted on August 08, 2007. The examiners of record gave possible solutions to overcome at least the U.S.C 101 rejections. The examiners of record feel at this time a further interview would not advance the prosecution or place the claims in condition for allowance.


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